

1-1 By: Ellis S.B. No. 1956
1-2 (In the Senate - Filed May 20, 2003; May 21, 2003, read
1-3 first time and referred to Committee on Intergovernmental
1-4 Relations; May 23, 2003, reported favorably by the following vote:
1-5 Yeas 4, Nays 0; May 23, 2003, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to the creation of the Fourth Ward Management District;
1-9 providing the authority to impose taxes and issue bonds.

1-10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-11 SECTION 1. CREATION OF DISTRICT. (a) The Fourth Ward
1-12 Management District is a special district created under Section 59,
1-13 Article XVI, Texas Constitution.

1-14 (b) The board by resolution may change the name of the
1-15 district.

1-16 SECTION 2. DEFINITIONS. In this Act:

1-17 (1) "Board" means the board of directors of the
1-18 district.

1-19 (2) "District" means the Fourth Ward Management
1-20 District.

1-21 SECTION 3. DECLARATION OF INTENT. (a) The creation of the
1-22 district is essential to accomplish the purposes of Sections 52 and
1-23 52-a, Article III, and Section 59, Article XVI, Texas Constitution,
1-24 and other public purposes stated in this Act.

1-25 (b) The creation of the district is necessary to promote,
1-26 develop, encourage, and maintain employment, commerce,
1-27 transportation, housing, tourism, recreation, the arts,
1-28 entertainment, economic development, safety, and the public
1-29 welfare in the area of the district.

1-30 (c) This Act and the creation of the district may not be
1-31 interpreted to relieve Harris County or the City of Houston from
1-32 providing the level of services provided as of the effective date of
1-33 this Act to the area in the district. The district is created to
1-34 supplement and not to supplant the county or city services provided
1-35 in the area in the district.

1-36 (d) By creating the district and in authorizing the City of
1-37 Houston, Harris County, and other political subdivisions to
1-38 contract with the district, the legislature has established a
1-39 program to accomplish the public purposes set out in Section 52-a,
1-40 Article III, Texas Constitution.

1-41 SECTION 4. BOUNDARIES. The district includes all the
1-42 territory contained in the following described area:

1-43 In this boundary description, unless otherwise specifically
1-44 stated, the boundary line is defined by the center point of the
1-45 street right of way for all streets used to define the boundary.

1-46 THE POINT OF BEGINNING is the intersection of Montrose Boulevard
1-47 and Allen Parkway, on the southern right of way line of Allen
1-48 Parkway;

1-49 Thence proceeding in an easterly direction, along the southern
1-50 right of way line of Allen Parkway, to the intersection of Allen
1-51 Parkway and Heiner;

1-52 Thence proceeding in a southerly direction along Heiner Street to
1-53 the intersection of Heiner Street and Cleveland Street;

1-54 Thence proceeding in a Westerly direction along Cleveland Street to
1-55 the intersection of Cleveland Street and Arthur Street;

1-56 Thence proceeding in a southerly direction along Arthur Street, to
1-57 where the boundary line intersects with the published Midtown
1-58 Management District boundary line;

1-59 Thence following the Midtown Management District boundary line,
1-60 first in a southerly direction, turning toward a southeasterly
1-61 direction where that boundary line intersects with Baldwin Street,
1-62 immediately southwest of the intersection of St. Joseph Parkway and
1-63 Baldwin;

1-64 Thence proceeding in a southwesterly direction along Baldwin Street

2-1 to the intersection of Baldwin and West Gray Avenue;
2-2 Thence proceeding in a northwesterly direction along West Gray
2-3 Avenue to the "Y" intersection formed by West Gray and Webster
2-4 Avenue;
2-5 Thence proceeding in a southwesterly direction along Webster to the
2-6 intersection of Webster and Cushings Street;
2-7 Thence proceeding in a southerly direction along Cushings Street
2-8 until the intersection of Cushings Street and West Webster Avenue;
2-9 Thence proceeding in a westerly direction along West Webster Avenue
2-10 to the intersection of West Webster Avenue and Bailey Street;
2-11 Thence proceeding in a southerly direction along Bailey Street to
2-12 the intersection of Bailey Street and the published Midtown
2-13 Management District boundary line;
2-14 Thence proceeding in a southwesterly direction along the published
2-15 Midtown Management District boundary line to where the boundary
2-16 intersects with Boston Street;
2-17 Thence proceeding in a southwesterly direction on Boston Street to
2-18 the intersection of Boston and Dennis Avenue;
2-19 Thence proceeding in a northwesterly direction along Dennis Avenue
2-20 to the intersection of Dennis Avenue, Genesee Street, and Welch
2-21 Avenue;
2-22 Thence proceeding in a westerly direction along Welch Avenue to the
2-23 intersection of Welch Avenue and Taft Street;
2-24 Thence proceeding in a northerly direction along Taft to the
2-25 intersection of Taft Street and West Dallas Street;
2-26 Thence proceeding in a westerly direction along West Dallas to the
2-27 intersection West Dallas and Montrose Boulevard;
2-28 Thence proceeding in a northerly direction along Montrose Boulevard
2-29 to the intersection of Montrose Boulevard and Allen Parkway, at the
2-30 southern right of way line, the Point of Beginning.

2-31 SECTION 5. FINDINGS RELATING TO BOUNDARIES. The boundaries
2-32 and field notes of the district form a closure. A mistake in the
2-33 field notes or in copying the field notes in the legislative process
2-34 does not in any way affect the district's:

- 2-35 (1) organization, existence, or validity;
- 2-36 (2) right to issue any type of bond for a purpose for
2-37 which the district is created or to pay the principal of and
2-38 interest on a bond;
- 2-39 (3) right to impose or collect an assessment or tax; or
- 2-40 (4) legality or operation.

2-41 SECTION 6. FINDINGS OF BENEFIT AND PUBLIC PURPOSE.

2-42 (a) The district is created to serve a public use and benefit.

2-43 (b) All land and other property included in the district
2-44 will benefit from the improvements and services to be provided by
2-45 the district under powers conferred by Sections 52 and 52-a,
2-46 Article III, and Section 59, Article XVI, Texas Constitution, and
2-47 other powers granted under this Act.

2-48 (c) The creation of the district is in the public interest
2-49 and is essential to:

- 2-50 (1) further the public purposes of development and
2-51 diversification of the economy of the state;
- 2-52 (2) eliminate unemployment and underemployment; and
- 2-53 (3) develop or expand transportation and commerce.

2-54 (d) The district will:

2-55 (1) promote the health, safety, and general welfare of
2-56 residents, employers, employees, visitors, and consumers in the
2-57 district and of the public;

2-58 (2) provide needed funding to preserve, maintain, and
2-59 enhance the economic health and vitality of the district as a
2-60 community and business center; and

2-61 (3) promote the health, safety, welfare, and enjoyment
2-62 of the public by providing pedestrian ways and by landscaping and
2-63 developing certain areas in the district, which are necessary for
2-64 the restoration, preservation, and enhancement of scenic beauty.

2-65 (e) Pedestrian ways along or across a street, whether at
2-66 grade or above or below the surface, and street lighting, street
2-67 landscaping, and street art objects are parts of and necessary
2-68 components of a street and are considered to be a street or road
2-69 improvement.

3-1 (f) The district will not act as the agent or
3-2 instrumentality of any private interest even though the district
3-3 will benefit many private interests as well as the public.

3-4 SECTION 7. APPLICATION OF OTHER LAW. (a) Except as
3-5 otherwise provided by this Act, Chapter 375, Local Government Code,
3-6 applies to the district.

3-7 (b) Chapter 311, Government Code (Code Construction Act),
3-8 applies to this Act.

3-9 SECTION 8. CONSTRUCTION OF ACT. This Act shall be liberally
3-10 construed in conformity with the findings and purposes stated in
3-11 this Act.

3-12 SECTION 9. BOARD OF DIRECTORS IN GENERAL. (a) The
3-13 district is governed by a board of 11 voting directors appointed
3-14 under Section 10 of this Act and nonvoting directors as provided by
3-15 Section 11 of this Act.

3-16 (b) Voting directors serve staggered terms of four years,
3-17 with six directors' terms expiring June 1 of an odd-numbered year
3-18 and five directors' terms expiring June 1 of the following
3-19 odd-numbered year.

3-20 (c) The board may increase or decrease the number of
3-21 directors on the board by resolution if the board finds that it is
3-22 in the best interest of the district. The board may not consist of
3-23 fewer than five or more than 15 directors.

3-24 SECTION 10. APPOINTMENT OF DIRECTORS. The mayor and
3-25 members of the governing body of the City of Houston shall appoint
3-26 voting directors from persons recommended by the board. A person is
3-27 appointed if a majority of the members of the governing body,
3-28 including the mayor, vote to appoint that person.

3-29 SECTION 11. NONVOTING DIRECTORS. (a) The following
3-30 persons shall serve as nonvoting directors:

3-31 (1) the directors of the following departments of the
3-32 City of Houston or a person designated by that director:

- 3-33 (A) parks and recreation;
- 3-34 (B) planning and development;
- 3-35 (C) public works; and
- 3-36 (D) civic center; and

3-37 (2) the City of Houston's chief of police.

3-38 (b) If a department described by Subsection (a) of this
3-39 section is consolidated, renamed, or changed, the board may appoint
3-40 a director of the consolidated, renamed, or changed department as a
3-41 nonvoting director. If a department described by Subsection (a) of
3-42 this section is abolished, the board may appoint a representative
3-43 of another department that performs duties comparable to those
3-44 performed by the abolished department.

3-45 (c) Nonvoting directors are not counted for the purposes of
3-46 establishing a quorum of the board.

3-47 SECTION 12. CONFLICTS OF INTEREST; ONE-TIME AFFIDAVIT.

3-48 (a) Except as provided by this section:

3-49 (1) a voting director may participate in all board
3-50 votes and decisions; and

3-51 (2) Chapter 171, Local Government Code, governs
3-52 conflicts of interest for voting directors.

3-53 (b) Section 171.004, Local Government Code, does not apply
3-54 to the district. A director who has a substantial interest in a
3-55 business or charitable entity that will receive a pecuniary benefit
3-56 from a board action shall file a one-time affidavit declaring the
3-57 interest. An additional affidavit is not required if the
3-58 director's interest changes. After the affidavit is filed with the
3-59 board secretary, the director may participate in a discussion or
3-60 vote on that action if:

3-61 (1) a majority of the directors have a similar
3-62 interest in the same entity; or

3-63 (2) all other similar business or charitable entities
3-64 in the district will receive a similar pecuniary benefit.

3-65 (c) A director who is also an officer or employee of a public
3-66 entity may not participate in the discussion of or vote on a matter
3-67 regarding a contract with that same public entity.

3-68 (d) For purposes of this section, a director has a
3-69 substantial interest in a charitable entity in the same manner that

4-1 a person would have a substantial interest in a business entity
4-2 under Section 171.002, Local Government Code.

4-3 SECTION 13. ADDITIONAL POWERS OF DISTRICT. The district
4-4 may exercise the powers given to:

4-5 (1) a corporation created under Section 4B,
4-6 Development Corporation Act of 1979 (Article 5190.6, Vernon's Texas
4-7 Civil Statutes), including the power to own, operate, acquire,
4-8 construct, lease, improve, and maintain projects described by that
4-9 section; and

4-10 (2) a housing finance corporation created under
4-11 Chapter 394, Local Government Code, to provide housing or
4-12 residential development projects in the district.

4-13 SECTION 14. AGREEMENTS; GRANTS. (a) The district may make
4-14 an agreement with or accept a gift, grant, or loan from any person.

4-15 (b) The implementation of a project is a governmental
4-16 function or service for the purposes of Chapter 791, Government
4-17 Code.

4-18 SECTION 15. LAW ENFORCEMENT SERVICES. To protect the
4-19 public interest, the district may contract with Harris County or
4-20 the City of Houston to provide law enforcement services in the
4-21 district for a fee.

4-22 SECTION 16. NONPROFIT CORPORATION. (a) The board by
4-23 resolution may authorize the creation of a nonprofit corporation to
4-24 assist and act on behalf of the district in implementing a project
4-25 or providing a service authorized by this Act.

4-26 (b) The board shall appoint the board of directors of a
4-27 nonprofit corporation. The board of directors of the nonprofit
4-28 corporation shall serve in the same manner as the board of directors
4-29 of a local government corporation created under Chapter 431,
4-30 Transportation Code.

4-31 (c) The nonprofit corporation:

4-32 (1) has the powers of and is considered for purposes of
4-33 this Act to be a local government corporation created under Chapter
4-34 431, Transportation Code; and

4-35 (2) may implement any project and provide any service
4-36 authorized by this Act.

4-37 SECTION 17. REQUIREMENTS FOR FINANCING SERVICES AND
4-38 IMPROVEMENTS. The board may not finance a service or improvement
4-39 project with assessments under this Act unless a written petition
4-40 requesting that improvement or service has been filed with the
4-41 board. The petition must be signed by:

4-42 (1) the owners of a majority of the assessed value of
4-43 real property in the district subject to assessment as determined
4-44 by the most recent certified tax appraisal roll for Harris County;
4-45 or

4-46 (2) at least 25 owners of real property in the
4-47 district, if more than 25 persons own real property in the district
4-48 as determined by the most recent certified tax appraisal roll for
4-49 Harris County.

4-50 SECTION 18. ELECTIONS. (a) The district shall hold an
4-51 election in the manner provided by Subchapter L, Chapter 375, Local
4-52 Government Code, to obtain voter approval before the district
4-53 imposes a maintenance tax or issues bonds payable from ad valorem
4-54 taxes.

4-55 (b) The board may submit multiple purposes in a single
4-56 proposition at an election.

4-57 (c) Section 375.243, Local Government Code, does not apply
4-58 to the district.

4-59 SECTION 19. MAINTENANCE TAX. (a) If authorized at an
4-60 election held in accordance with Section 18 of this Act, the
4-61 district may impose an annual ad valorem tax on taxable property in
4-62 the district for the:

4-63 (1) maintenance and operation of the district and the
4-64 improvements constructed or acquired by the district; or

4-65 (2) provision of a service.

4-66 (b) The board shall determine the tax rate.

4-67 SECTION 20. ASSESSMENTS. (a) The board by resolution may
4-68 impose and collect an assessment for any purpose authorized by this
4-69 Act.

5-1 (b) An assessment, a reassessment, or an assessment
5-2 resulting from an addition to or correction of the assessment roll
5-3 by the district, penalties and interest on an assessment or
5-4 reassessment, an expense of collection, and reasonable attorney's
5-5 fees incurred by the district:

5-6 (1) are a first and prior lien against the property
5-7 assessed;

5-8 (2) are superior to any other lien or claim other than
5-9 a lien or claim for county, school district, or municipal ad valorem
5-10 taxes; and

5-11 (3) are the personal liability of and charge against
5-12 the owners of the property even if the owners are not named in the
5-13 assessment proceedings.

5-14 (c) The lien is effective from the date of the resolution of
5-15 the board imposing the assessment until the date the assessment is
5-16 paid. The board may enforce the lien in the same manner that the
5-17 board may enforce an ad valorem tax lien against real property.

5-18 (d) The board may make corrections to or deletions from the
5-19 assessment roll without providing notice and holding a hearing in
5-20 the manner required for additional assessments, if the corrections
5-21 or deletions do not increase the amount of assessment of any parcel
5-22 of land.

5-23 SECTION 21. UTILITIES. The district may not impose an
5-24 impact fee or assessment on the property, including the equipment,
5-25 rights-of-way, facilities, or improvements, of an electric utility
5-26 or a power generation company as defined by Section 31.002,
5-27 Utilities Code, or a gas utility as defined by Section 101.003 or
5-28 121.001, Utilities Code, or of a telecommunications provider as
5-29 defined by Section 51.002, Utilities Code, or a cable operator as
5-30 defined by 47 U.S.C. Section 522 and its subsequent amendments.

5-31 SECTION 22. BONDS. (a) The district may issue bonds or
5-32 other obligations payable in whole or in part from ad valorem taxes,
5-33 assessments, impact fees, revenue, grants, or other money of the
5-34 district, or any combination of those sources of money, to pay for
5-35 any authorized purpose of the district.

5-36 (b) In exercising the district's borrowing power, the
5-37 district may issue a bond or other obligation in the form of a bond,
5-38 note, certificate of participation or other instrument evidencing a
5-39 proportionate interest in payments to be made by the district, or
5-40 other type of obligation.

5-41 SECTION 23. MUNICIPALITY NOT REQUIRED TO PAY DISTRICT
5-42 OBLIGATIONS. Except as provided by Section 375.263, Local
5-43 Government Code, the City of Houston is not required to pay a bond,
5-44 note, or other obligation of the district.

5-45 SECTION 24. DISBURSEMENTS OR TRANSFERS OF MONEY. The board
5-46 by resolution shall establish the number of directors' signatures
5-47 and the procedure required for a disbursement or transfer of the
5-48 district's money.

5-49 SECTION 25. COMPETITIVE BIDDING LIMIT. Section 375.221,
5-50 Local Government Code, applies to the district only for a contract
5-51 that has a value of more than \$25,000.

5-52 SECTION 26. EXCEPTION FOR DISSOLUTION OF DISTRICT WITH
5-53 OUTSTANDING DEBT. (a) The board may vote to dissolve a district
5-54 that has debt. If the vote is in favor of dissolution, the district
5-55 shall remain in existence solely for the limited purpose of
5-56 discharging its debts. The dissolution is effective when all debts
5-57 have been discharged.

5-58 (b) Section 375.264, Local Government Code, does not apply
5-59 to the district.

5-60 SECTION 27. TAX AND ASSESSMENT ABATEMENTS. The district
5-61 may grant in the manner authorized by Chapter 312, Tax Code, an
5-62 abatement for a tax or assessment owed to the district.

5-63 SECTION 28. MEMBERSHIP IN CHARITABLE ORGANIZATIONS. The
5-64 district may join and pay dues to an organization that:

5-65 (1) enjoys tax-exempt status under Section 501(c)(3),
5-66 501(c)(4), or 501(c)(6), Internal Revenue Code of 1986 (26 U.S.C.
5-67 Section 501(c)), as amended; and

5-68 (2) perform services or provide activities consistent
5-69 with the furtherance of the purposes of the district.

SECTION 29. ELIGIBILITY FOR INCLUSION IN SPECIAL ZONES. All or any part of the area of the district is eligible to be included in:

- (1) a tax increment reinvestment zone created by the City of Houston under Chapter 311, Tax Code;
- (2) a tax abatement reinvestment zone created by the City of Houston under Chapter 312, Tax Code; or
- (3) an enterprise zone created by the City of Houston under Chapter 2303, Government Code.

SECTION 30. ECONOMIC DEVELOPMENT PROGRAMS. The district may establish and provide for the administration of one or more programs, including programs for making loans and grants of public money and providing personnel and services of the district, to promote state or local economic development and to stimulate business and commercial activity in the district. The district has all of the powers and authority of a municipality under Chapter 380, Local Government Code.

SECTION 31. INITIAL DIRECTORS. (a) The initial board consists of the following persons:

Pos. No.	Name of Director
1	Ernie Etuk
2	Marcia Johnson
3	Horace Allison
4	Eulundia Kaye Shepard
5	Rev. Owen B. Brown
6	Rev. Elmo Johnson
7	John Garza
8	Karen Domino
9	Kevin Hoffman
10	Jeff Andrews
11	William Paul Thomas

(b) Of the initial directors, the terms of directors appointed for positions 1 through 6 expire June 1, 2007, and the terms of directors appointed for positions 7 through 11 expire June 1, 2005.

(c) Section 10 of this Act does not apply to this section.

(d) This section expires September 1, 2007.

SECTION 32. LEGISLATIVE FINDINGS. The legislature finds that:

(1) proper and legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published as provided by law, and the notice and a copy of this Act have been furnished to all persons, agencies, officials, or entities to which they are required to be furnished by the constitution and laws of this state, including the governor, who has submitted the notice and Act to the Texas Commission on Environmental Quality;

(2) the Texas Commission on Environmental Quality has filed its recommendations relating to this Act with the governor, lieutenant governor, and speaker of the house of representatives within the required time;

(3) the general law relating to consent by political subdivisions to the creation of districts with conservation, reclamation, and road powers and the inclusion of land in those districts has been complied with; and

(4) all requirements of the constitution and laws of this state and the rules and procedures of the legislature with respect to the notice, introduction, and passage of this Act have been fulfilled and accomplished.

SECTION 33. EFFECTIVE DATE. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2003.

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